

1 AN ACT relating to expungement of juvenile records.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔Section 1. KRS 610.330 is amended to read as follows:

- 4 (1) *If a child is adjudicated delinquent of a status or a public offense, other than an*
5 *offense listed in KRS 439.3401 or a sex crime as defined in KRS 17.500, the court*
6 *in which the child was adjudicated shall:*~~[Any child who has been adjudicated as~~
7 ~~coming within the purview of KRS Chapters 630, 635 (with regard to status~~
8 ~~offenses, misdemeanors, or violations only), or 645, but not KRS Chapters 620 or~~
9 ~~640, may petition the court for the expungement of his or her juvenile court record,~~
10 ~~except for adjudications involving guilt of an offense which would have been a~~
11 ~~felony if the offense was committed by an adult. He or she shall be informed of~~
12 ~~such right at the time of adjudication. The court on its own motion, or on the motion~~
13 ~~of a probation officer of the court, a representative of the Department of Juvenile~~
14 ~~Justice or the cabinet, or any other interested person may initiate expungement~~
15 ~~proceedings concerning the record of any child who has been under the jurisdiction~~
16 ~~of the court. The petition shall be filed or the court order entered no sooner than]~~
17 *(a)* Two (2) years after the date of termination of the court's jurisdiction over the
18 person;~~[,]~~ or
19 *(b)* Two (2) years after his or her unconditional release from commitment to the
20 Department of Juvenile Justice or the Cabinet for Health and Family Services
21 or a public or private agency;~~[,]~~
22 *if in the previous two (2) years the child has not been convicted of a felony or a*
23 *public offense and there is no felony or public offense pending or being instituted*
24 *against the child, order the adjudication vacated and the records expunged.*
25 *(2)* ~~[except that]~~The two (2) year period may be waived, *the adjudication vacated, and*
26 *the records expunged on a motion by the child* if the court finds that such
27 extraordinary circumstances exist with regard to the *child*~~[petitioner]~~ as to make the

1 waiver advisable.

2 (3) If a court dismisses a petition against a child or finds a child not delinquent in a
3 juvenile proceeding, the court shall concurrently order the record of the
4 proceeding expunged.

5 (4) An order pursuant to subsection (1) or (3) of this section shall not require any
6 action by the child.

7 (5) A court that issues an order pursuant to subsection (1), (2), or (3) of this section
8 shall inform the person in writing of the order, and of the consequences of the
9 order, including protection from civil and criminal perjury, false swearing, and
10 false statement laws with respect to the record.

11 ~~[(2) Upon the filing of a petition or entering of a court order, the court shall set a date for~~
12 ~~a hearing and shall notify the county attorney and anyone else whom the court or the~~
13 ~~child, his or her parents, relatives, guardian, or custodian has reason to believe may~~
14 ~~have relevant information related to the expungement of the record.~~

15 ~~(3) The court shall order sealed all records in the petitioner's case in the custody of the~~
16 ~~court and any of these records in the custody of any other agency or official,~~
17 ~~including law enforcement and public or private elementary and secondary school~~
18 ~~records, if at the hearing the court finds that:~~

19 ~~(a) Since the termination of the court's jurisdiction or his unconditional release~~
20 ~~from commitment to the Department of Juvenile Justice, the cabinet, or a~~
21 ~~public or private agency, the person whose record is in question has not been~~
22 ~~convicted of a felony, and has not been adjudicated under KRS 610.010(1);~~
23 ~~and~~

24 ~~(b) No proceeding concerning a felony and no petition under KRS 610.010(1) is~~
25 ~~pending or being instituted against him.]~~

26 (6) [(4)] Upon the entry of an order to **expunge** [seal] the records, the proceedings in
27 the case shall be deemed never to have occurred and all index references shall be

1 deleted and the person and court may properly reply that no record exists with
2 respect to such person upon any inquiry in the matter.

3 (7)~~[(5)]~~ Copies of the order shall be sent to each agency or official named therein.

4 (8)~~[(6)]~~ Inspection of the records included in the order may thereafter be permitted by
5 the court only upon petition by the person who is the subject of such records, and
6 only to those persons named in such petition.